THE HONOURABLE SRI JUSTICE P.S. NARAYANA

W.P. NO. 20748 of 2007

DATED: 04-10-2007

Between:-

M/s. A. Mark Procon, represented by its Proprietor Chandra Shekher Joshi.

..PETITIONER

And

The Commissioner & Director of Agriculture, A.P. Gunfoundry, Hyderabad.

..RESPONDENT

THE HONOURABLE SRI JUSTICE P.S. NARAYANA

W.P. NO. 20748 of 2007

O R D E R

The writ petition is filed for a Writ of Mandamus declaring the action of the respondent in interfering with the manufacturing and sale of the petitioner's Bio-Products like Amino Acid and Sea-weed extract by issuing Memo No. PP.II(I)2085/2005, dated 21.01.2006 and the consequential letter No. PP.II(1)2085/2005, dated 21.01.2006 as being illegal, arbitrary, unconstitutional and without jurisdiction and further direct the respondent not to interfere with in any manner in the manufacture, sale and distribution of the petitioner's Bio-products including from the licensed premises of the dealers/stockists under the Insecticides Act, 1968 and the Fertilizers Control (Order) Act, 1985 and pass such other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. This Court in W.P. No. 19733 of 2007 disposed of the writ petition observing as hereunder:

> "Several factual details had been narrated in the affidavit filed in support of the petition. Reliance is also placed on decisions of this Court in W.P. No. 8207/2006 & Batch and also W.P. No. 17508/2007 & Batch. It is not in serious controversy that in similar cases, writ petitions are disposed of with certain directions. It is also stated that these matters were not carried by way of Writ Appeal. This Court also disposed of Writ Petition Nos. 19226/2007, 19247/2007, 19265/2007, 19285/2007 and 19286/2007 on 11-09-2007 and W.P. No. 19551 of 2007 & Batch on 14-09-2007, in the light of the views expressed by this Court in

the aforesaid Batch cases, referred to supra. In view of the same, the instant writ petition is disposed of with the following directions.

a) It shall be open to the petitioner to submit a sample of 5 kg. Of each product dealt with by him, together with the corresponding literature, throwing light upon the manufacturing process as well as the contents thereof, to the respondent herein.

b) Within four (4) weeks from the date of submission of the samples and the literature by the petitioner, the respondent shall get the same analysed in a suitable laboratory and intimate the result of the analysis to the petitioner.

c) In case, the analysis reveals that the products dealt with by the petitioner answer the description of the products mentioned in Schedule-III to the Control Order, the petitioner shall be entitled to deal with the products, only after obtaining licence under the Control Order. On the other hand, if the result is found otherwise, the petitioner shall not be subjected to the regime under the Control Order or the Act; and

d) If the respondent fails to intimate the result of the analysis within four (4) weeks from the date of submission of the samples and the literature, it shall be open to the petitioner to deal with the products, notwithstanding the impugned letter and the memo, as long as the products are not insecticides or chemicals.

It is stated that the petitioner is running business. In the light of the same, status quo as on today be maintained till appropriate action, if any, is taken, in the light of the directions specified supra. No order as to costs."

In the light of the same, this writ petition is also disposed of with the following directions.

a) It shall be open to the petitioner to submit a sample of 5 kg. Of each product dealt with by him, together with the corresponding literature, throwing light upon the manufacturing process as well as the contents thereof, to the respondent herein.

b) Within four (4) weeks from the date of submission of the samples and the literature by the petitioner, the respondent shall get the same analysed in a suitable laboratory and intimate the result of the analysis to the petitioner.

c) In case, the analysis reveals that the products dealt with by the petitioner answer the description of the products mentioned in Schedule-III to the Control Order, the petitioner shall be entitled to deal with the products, only after obtaining licence under the Control Order. On the other hand, if the result is found otherwise, the petitioner shall not be subjected to the regime under the Control Order or the Act; and

d) If the respondent fails to intimate the result of the analysis within four (4) weeks from the date of submission of the samples and the literature, it shall be open to the petitioner to deal with the products, notwithstanding the impugned letter and the memo, as long as the products are not insecticides or chemicals.

However, the learned Government Pleader for Agriculture states that the expenses to be borne by the writ-petitioner. It is needless to say that the learned Government Pleader for Agriculture is at liberty to move appropriate application in this regard.

The writ petition is, accordingly, disposed of. No costs as to costs.

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P.S. NARAYANA,J

Dated: 04-10-2007

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